

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.66 ACRES OF LAND, MORE OR LESS,
SITUATE IN STARR COUNTY, STATE
OF TEXAS; AND GUADALUPE DE LA
CRUZ, ET AL.,

Defendant.

CASE NO. 7:08-cv-063

**JOINT MOTION FOR ORDER ESTABLISHING JUST COMPENSATION, GRANTING
POSSESSION, DISTRIBUTING FUNDS ON DEPOSIT IN THE REGISTRY OF THE
COURT FOR TRACTS RGV-RGC-1010 (ROE), RGV-RGC-1010 (FEE), RGV-RGC-
1010E, RGV-RGC-1010E-1, AND RGV-RGC-4025, AND CLOSING CASE**

1. On February 8, 2008, the United States of America (hereafter “United States”) filed a Declaration of Taking (Dkt. No. 2) in this cause for the acquisition of a temporary six-month access easement across land identified as Tract RGV-RGC-1010, in Roma, Starr County, Texas. The United States subsequently deposited \$100.00 into the Registry of the Court as an estimate of just compensation. Dkt. No. 8. Pursuant to 40 U.S.C. § 3114(b)(1), the filing and the deposit immediately vested title to this access easement in the United States.

2. On November 13, 2008, Civil No. 7:08-cv-326 commenced with the United States’ filing of a Declaration of Taking (Dkt. No. 2) for the acquisition of certain interests in lands identified as Tracts RGV-RGC-1010 (fee simple), RGV-RGC-1008E (temporary work easement), and RGV-RGC-1010E (temporary work easement), in Roma, Starr County, Texas. The United States deposited \$31,700 as estimated just compensation for these interests. Dkt. Nos. 4 and 15, Civil No. 7:08-cv-326. Pursuant to 40 U.S.C. § 3114(b)(1), the filing and the deposit immediately

vested title to these tracts in the United States.

3. On November 7, 2012, the Court entered its Order to Consolidate cases, granting the United States' Motion to Consolidate Lead Case No. 7:08-cv-063 and Member Case No. 7:08-cv-326 as both cases involved the acquisition of interests over the same parent tract of land.

4. On January 4, 2019, the United States filed an Amended Declaration of Taking (Dkt. No. 30) clarifying the description of Tracts RGV-RGC-1010 (fee simple) and RGV-RGC-1008E, which was broken up into three separate work area easements and renumbered for identification as Tracts RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-1010E-2.

5. On May 29, 2019, the United States made an additional deposit of four thousand and 00/100 dollars (\$4,400.00) into the Registry of the Court. Dkt. No. 41.

6. On December 17, 2020, the United States filed a Second Amended Declaration of Taking (Dkt. No. 61) clarifying the description of Tract RGV-RGC-1010 (fee simple), adding Tract RGV-RGC-1105, and creating new Tracts RGV-RGC-4025, RGV-RGC-4065, and RGV-RGC-4093.

7. On June 23, 2021, the United States deposited an additional forty-one thousand two hundred seventeen and 00/100 dollars (\$41,217.00) into the Registry of the Court as estimated just compensation. Dkt. No. 73. Pursuant to 40 U.S.C. § 3114(b)(1), the filing and the deposit immediately vested title to new Tracts RGV-RGC-4025, RGV-RGC-4065, and RGV-RGC-4093 in the United States.

8. Thus, the Tracts acquired by the United States in this case are:

- a. Tract RGV-RGC-1010 (temporary right of entry easement, hereafter "ROE")
- b. Tract RGV-RGC-1010 (fee simple interest)
- c. Tract RGV-RGC-1105 (fee simple interest)

- d. Tract RGV-RGC-1010E, 1010E-1, 1010E-2 (temporary work area easements)
- e. Tract RGV-RGC-4025 (fee simple interest)
- f. Tract RGV-RGC-4065 (fee simple interest)
- g. Tract RGV-RGC-4093 (fee simple interest)

9. The Defendants who have a title interest in Tract RGV-RGC-1010 (fee) are: Natalia De La Cruz, Sylvia De La Cruz Gonzalez, and Maria De La Cruz Rios; all of whom have agreed to \$10,733.34 as the total just compensation for Tract RGV-RGC-1010 (fee).

10. The Defendants who have a title interest in Tract RGV-RGC-1010 (ROE) are: Natalia De La Cruz, Sylvia De La Cruz Gonzalez, Maria De La Cruz Rios, Maria De La Cruz (aka Maria De La Luz Fabela De La Cruz), Mario Alberto Cruz, Angela Maria Cruz, and Baldemar De La Cruz, Jr.; all of whom have agreed to \$100.00 as the total just compensation for Tract RGV-RGC-1010 (ROE).

11. The Defendants who have a title interest in Tracts RGV-RGC-1010E are: Natalia De La Cruz, Sylvia De La Cruz Gonzalez, Maria De La Cruz Rios, Maria De La Cruz (aka Maria De La Luz Fabela De La Cruz), Mario Alberto Cruz, Angela Maria Cruz, and Baldemar De La Cruz, Jr.; all of whom have agreed to the total just compensation of \$1,500.00 for Tract RGV-RGC-1010E.

12. The Defendants who have a title interest in Tract RGV-RGC-1010E-1 are Natalia De La Cruz, Sylvia De La Cruz Gonzalez, Maria De La Cruz Rios, Maria De La Cruz (aka Maria De La Luz Fabela De La Cruz), Mario Alberto Cruz, Angela Maria Cruz, and Baldemar De La Cruz, Jr.; all of whom have agreed to \$9,000.00 as the total just compensation for Tract RGV-RGC-1010E-1.

13. The Defendant who has a title interest in Tract RGV-RGC-4025 is: Old Republic

National Title Insurance Company; who has agreed to \$3,440.00 as the total just compensation for Tract RGV-RGC-4025.

14. Thus, the United States and Defendants Natalia De La Cruz, Sylvia De La Cruz Gonzalez, Maria De La Cruz Rios, Maria De La Cruz (aka Maria De La Luz Fabela De La Cruz), Mario Alberto Cruz, Angela Maria Cruz, and Baldemar De La Cruz, Jr., and Old Republic National Title Insurance Company (hereafter collectively “Defendants”), now make this joint motion for an Order: (a) establishing twenty-four thousand seven hundred seventy-three and 34/100 dollars (\$24,773.34) as the total just compensation for Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025; (b) granting the United States possession of fee Tracts RGV-RGC-1010, RGV-RGC-1010E, RGV-RGC-1010E-1, RGV-RGC-1010 and RGV-RGC-4025; (c) disbursing the stipulated amount of just compensation, as directed below, from the funds on deposit in the Registry of the Court; and (d) closing the case. As grounds for this motion, the parties jointly state:

- a. The United States and Defendants confirm and agree that the full and just compensation payable by the United States for the taking of Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025 shall be the sum of twenty-four thousand seven hundred seventy-three and 34/100 dollars (\$24,773.34), plus any accrued interest, which sum is all inclusive and in full satisfaction of any claims of whatsoever nature by Defendants against the United States for the institution and prosecution of the above-captioned action.
- b. The parties respectfully request that final judgment be entered against the United States in the amount of twenty-four thousand seven hundred seventy-three and 34/100 dollars (\$24,773.34) for its taking of Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE),

RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025, along with any accrued interest.

- c. The United States and Defendants agree that title to Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025 has vested in the United States by operation of law.
- d. The parties agree that the United States shall be entitled to immediate possession of fee Tracts RGV-RGC-1010 and RGV-RGC-4025 and all persons in possession or control of the interests taken in this property should be ordered by the Court to surrender possession of the same to the United States.
- e. The total sum of twenty-four thousand seven hundred seventy-three and 34/100 dollars (\$24,773.34) currently on deposit with the Registry of the Court, with accrued interest, shall be subject to all real estate taxes, liens, encumbrances, and charges of whatsoever nature existing against the interests in the property taken in this proceeding at the time of vesting of title in the United States, and all such real estate taxes, liens, encumbrances, and charges of whatsoever nature shall be payable and deductible from this sum.
- f. Upon the Court's Order entering final judgment in accord with this stipulation of just compensation for Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025, the parties seek immediate disbursement of twenty-four thousand seven hundred seventy-three and 34/100 dollars (\$24,773.34) on deposit in the Registry of the Court, together with any accrued interest earned thereon from the initial deposit date, to be disbursed as follows:

- i. \$5,844.44 shall be payable by check to Natalia De La Cruz, with accrued interest from the date of deposit (for her ownership interest in RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1);
- ii. \$5,844.45 shall be payable by check to Sylvia De La Cruz Gonzalez, with accrued interest from the date of deposit (for her ownership interest in RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1);
- iii. \$5,844.45 shall be payable by check to Maria Guadalupe De La Cruz Rios, with accrued interest from the date of deposit (for her ownership interest in RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1);
- iv. \$1,140 shall be payable to Maria De La Cruz (a/k/a Maria De La Luz Fabela De La Cruz), with accrued interest from the date of deposit (for her ownership interest in RGV-RGC-1010 (ROE), RGV-RGC-1010E, and RGV-RGC-1010E-1);
- v. \$886.67 shall be payable to Mario Alberto Cruz, with accrued interest from the date of deposit (for his ownership interest in RGV-RGC-1010 (ROE), RGV-RGC-1010E, and RGV-RGC-1010E-1);
- vi. \$886.67 shall be payable to Angela Maria Cruz, with accrued interest from the date of deposit (for her ownership interest in RGV-RGC-1010 (ROE), RGV-RGC-1010E, and RGV-RGC-1010E-1);

- vii. \$886.66 shall be payable to Baldemar De La Cruz, Jr., with accrued interest from the date of deposit (for his ownership interest in RGV-RGC-1010 (ROE), RGV-RGC-1010E, and RGV-RGC-1010E-1);
- viii. \$3,440.00 shall be payable by check to Old Republic National Title Insurance Company, with accrued interest from the date of deposit (for its ownership interest in Tract RGV-RGC-4025).

g. Defendants warrant (a) they were the respective owners of Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025 (*supra ¶¶ 9-13*) taken in this proceeding on the date of taking; (b) they have the exclusive right to the compensation herein; excepting the interests of parties having liens, encumbrances of record, and unpaid taxes and assessments, if any; and (c) that no other party is entitled to the same or any part thereof by reason of any unrecorded agreement.

h. In the event that any other party is ultimately determined by a court of competent jurisdiction to have any right to receive compensation for Tracts RGV-RGC-1010 (fee), RGV-RGC-1010 (ROE), RGV-RGC-1010E, RGV-RGC-1010E-1, and RGV-RGC-4025, Defendants shall refund into the Registry of the Court the compensation distributed herein, or such part thereof as the Court may direct, with interest thereon at an annual rate provided in 40 U.S.C. § 3116 from the date of receipt of the respective deposit by Defendants, to the date of repayment into the Registry of the Court.

i. Defendants shall be responsible for their own legal fees, costs, and expenses, including attorney fees, consultant fees, and any other expenses or costs.

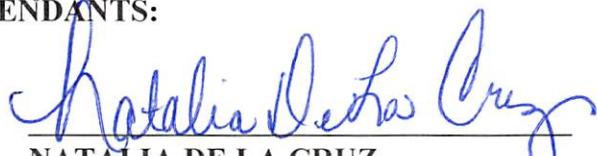
j. There being no outstanding taxes or assessments due or owing, Defendants are

responsible for the payment of any additional taxes or assessments which they otherwise owe on the interest in the property taken in this proceeding on the date of taking.

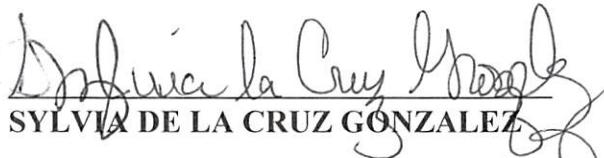
- k. Defendants shall take no appeal from any rulings or judgments made by the Court in this action, and the parties consent to the entry of all motions, orders, and judgments necessary to effectuate this stipulated judgment.
- l. Defendants shall save and hold harmless the United States from all claims or liability resulting from any unrecorded leases or agreements affecting the interests in the properties taken in this proceeding on the date of taking.
- m. This joint stipulation and motion is binding on the heirs, trustees, executors, administrators, devisees, successors, assigns, agents, and representatives of Defendants.
- n. Since there are no outstanding issues remaining in this case the parties request the Court enter an Order of final judgment in this case and close this case.

DEFENDANTS:

By:

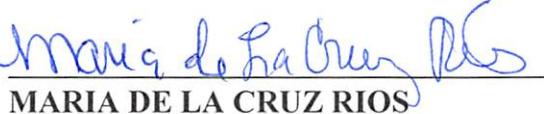

NATALIA DE LA CRUZ

By:


SYLVIA DE LA CRUZ GONZALEZ

By:

By:


MARIA DE LA CRUZ RIOS

By:

**MARIA DE LA CRUZ (aka Maria De La
Luz Fabela De La Cruz)**

By:

MARIO ALBERTO CRUZ

By:

ANGELA MARIA CRUZ

By:

BALDEMAR DE LA CRUZ, JR.

By:

**OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY**

Respectfully submitted,

FOR PLAINTIFF:

JENNIFER B. LOWERY
Acting United States Attorney
Southern District of Texas

s/ Megan Eyes

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By: NATALIA DE LA CRUZ

By: SYLVIA DE LA CRUZ GONZALEZ

By: MARIA DE LA CRUZ RIOS

By: Maria de la Luz Cruz
MARIA DE LA CRUZ (aka Maria De La
Luz Fabela De La Cruz)

By: Mario Cruz
MARIO ALBERTO CRUZ

By: Angela Falcon
ANGELA MARIA CRUZ

By: BALDEMAR DE LA CRUZ, JR.

By: OLD REPUBLIC NATIONAL TITLE
INSURANCE COMPANY

Respectfully submitted,

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By: SYLVIA DE LA CRUZ GONZALEZ

By: MARIA DE LA CRUZ RIOS

By: MARIA DE LA CRUZ (aka Maria De La
Luz Fabela De La Cruz)

By: MARIO ALBERTO CRUZ

By: ANGELA MARIA CRUZ

By: Baldevar Cruz Jr.
BALDEMAR DE LA CRUZ, JR.

By: Liz S.
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CERTIFICATE OF SERVICE

I certify that on September 3, 2021, a copy of the foregoing was electronically filed in the CM/ECF system, which will automatically serve a Notice of Electronic Filing on counsel of record, and by regular U.S. mail to all *pro se* Defendants listed in this cause.

By: *Megan Eyes*
MEGAN EYES
Assistant United States Attorney